

Cottage Foods

Ohio law has distinguished a limited category of food producers, cottage food producers, who are not subject to the typical regulatory requirements that other food processing establishments will encounter.¹ With very little oversight from food safety authorities, cottage food production and sales can be a very attractive opportunity for those wishing to start at-home production. Cottage food producers are those who produce non-potentially hazardous food items in their own home to sell to consumers within the state.²

Regulation

Under Ohio's cottage food law, home producers are not required to abide by all of the normal licensing and registration requirements a food producer may encounter. A "home" is the primary residence occupied by the residence's owner, on the condition that the residence contains only one stove or oven used for cooking, which may be a double oven, designed for a common residence usage and not for commercial usage, and that the stove or oven be operated in an ordinary kitchen within the residence.³ When approved foods are made within a home meeting this definition and sold exclusively within Ohio, producers can be exempt from inspection and licensing by the Ohio Department of Agriculture and the retail food establishment license requirement.

Although cottage food producers are not subject to licensing and registration requirements, they will still be subject to certain regulatory requirements and controls. The Ohio Department of Agriculture is responsible for the monitoring of compliance with the law. In addition to labeling, packaging, and sales regulations, all cottage food products are subject to the ODA's food sampling authority.⁴ Sampling procedures will test for any misbranding or adulteration of food products (see definitions for misbranding and adulteration). Sampling of cottage food products can be done at random or under any of the following circumstances:

- When a food, food additive, or food packaging is subject to a consumer complaint;
- When requested by a consumer whose doctor has identified an organism from the consumer;



- When a food, food additive, or food packaging material is suspected of having caused an illness;
- When a food, food additive, or food packaging material is suspected of being adulterated or misbranded;
- When a food, food additive, or food packaging material is subject to verification of food labeling and standards of identity;
- At any other time the ODA director considers a sample analysis necessary.⁵

The purpose of ODA sampling is to help promote consumer health and assist producers in remaining compliant. Food sampling is not optional, and any food found to be in violation of cottage food laws will likely be contacted by ODA to conduct a more thorough investigation to identify the cause of the violation.⁶ Violations of food safety laws can result in anywhere from a minor misdemeanor to a first-degree misdemeanor.⁷

What are cottage foods?

Cottage foods are non-potentially hazardous foods that carry a lower risk of improper preparation and handling. A potentially hazardous food item is one that:

- Has a pH level greater than 4.6 when measured at 75 degrees Fahrenheit or 24 degrees Celsius;

1 ORC 3715.021

2 ORC 3715.01(A)(19)

3 ORC 3715.01(A)(17)

4 ORC 3715.022, 3715.02, OAC 901:3-20-03

5 ORC 3715.02(B)

6 ORC 3715.52(A)(6)

7 ORC 3715.99

- Has a water activity value greater than 0.85;
- Requires temperature control because it is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms, the growth and toxin production of clostridium botulinum, or in the case of raw shell eggs, the growth of salmonella enteritidis.⁸

The Ohio Department of Agriculture has identified foods that meet this low risk criteria through its rule-making procedures. The following food products have been identified as approved cottage food products:⁹

- Baked goods that do not require refrigeration (bread¹⁰, cookies, brownies, cake, fruit pie, and fruit cobbler)
- Candy¹¹
- Fruit jams
- Fruit jellies
- Flavored honey produced by an exempt beekeeper
- Fruit chutneys
- Fruit butters
- Granola, granola bars dipped in candy
- Maple sugar produced by an exempt maple syrup producer
- Popcorn, flavored popcorn, kettle corn, popcorn balls, caramel corn
- Unfilled baked donuts
- Waffle cones and waffle cones dipped in candy
- Pizzelles
- Dry cereal and nut snack mixes with seasonings
- Roasted coffee, whole beans or ground, flavoring permitted
- Dry baking mixes in a jar (other pkg permitted)
- Dry herbs and herb blends
- Dry tea blends
- Dry soup mixes
- Dry seasoning blends

Cottage food production operations are not permitted to process acidified foods,¹² low acid canned foods,¹³ potentially hazardous foods, or non-potentially hazardous foods that are not specifically identified as acceptable cottage foods.¹⁴

ODA has identified the following items as products the cannot be offered as cottage foods:

- Any item that requires refrigeration to keep from spoiling, including fresh fruit garnishes or fillings, raw or cooked animal products, cooked vegetables, and garlic in oil
- Candy covered fresh fruit
- Freezer jam
- Sugar-free jams/jellies/fruit butters

- Fresh pasta
- Dehydrated fruits or herbs
- Cheesecake, cream pie, pumpkin pie
- Fry pies
- Popping corn
- Acidified foods (pickles, relishes)
- Salsa
- Hot pepper butter, pumpkin butter, nut butter
- Hummus
- Waffles or Belgian waffles
- Raw pizza dough, cookie dough
- Cream cheese frosting
- Beef jerky
- Meals
- Freeze-dried products

Partially Hydrogenated Oils (PHOs) are not Generally Recognized as Safe (GRAS) and therefore PHOs may not be used in cottage foods.¹⁵ Also, keep in mind that adulterated food products are never acceptable for sale under any circumstance (see definition of adulterated food). Food products must be prepared and stored in a clean and safe manner with no ingredient substitutions or dangerous additions.¹⁶ Adulterated or spoiled food should immediately be disposed of.

Packaging

Equally as important as ensuring the safe production of food products is the proper packaging and labeling of the items. Packaging must honestly present the items and must not conceal any product damages or inferiorities.¹⁷ Food packaging must always be done in sanitary conditions away from filth or contaminated areas that could create unhealthy food products.¹⁸ Cottage food producers will need to be just as mindful as licensed producers about their packaging to ensure there are no poisonous or dangerous elements within the packaging that could cause food items to become unhealthy for consumption.¹⁹

Additionally, cottage food products may not be packaged using reduced oxygen packaging.²⁰ This means that packaging may not be done in a way that removes oxygen, displaces oxygen with another gas, or otherwise controls the oxygen level to a content below the level normally found in the surrounding atmosphere.²¹ Reduced oxygen packaging includes vacuum packaging and modified atmosphere packaging.²²

⁸ ORC 3715.01(A)(18)

⁹ OAC 901:3-20-04

¹⁰ White bread for sale must be manufactured in compliance with ORC 911.33.

¹¹ No person shall manufacture for sale candy with an admixture of terra alba, barytes, talc, or other mineral substance, or with poisonous colors or flavors or other ingredients detrimental to health. ORC 3715.23

¹² Acidified foods are low acid foods to which acid or acid foods have been added.

¹³ Low acid foods are foods with a finished equilibrium pH greater than 4.6 and water activity greater than 0.85.

¹⁴ OAC 901:3-20-05

¹⁵ 21 CFR 170.38

¹⁶ ORC 3715.59

¹⁷ ORC 3715.59

¹⁸ ORC 3715.59

¹⁹ ORC 3715.59

²⁰ OAC 901:3-20-04

²¹ OAC 901:3-20-01(B)(6)

²² OAC 901:3-20-01(B)(6)

Labeling

In order to offer cottage food products for sale, product packaging must be labeled in compliance with state and, via state adoption, federal law.²³ The following information must be included:²⁴

- **Statement of Responsibility:** The name and address of the business of the cottage food production operation. The address must include the street address, the city or town, the state, and zip code. Additional information such as telephone numbers, web addresses and email addresses are permitted but must not be placed between the ingredient list and the required information for the Statement of Responsibility and cannot be used in lieu of the Statement of Responsibility.²⁵
- **Statement of Identity:** The common or usual name of the food product that accurately describes the nature of the food or its characterizing properties in bold type font on the principal panel of display. If the product is an imitation product, the label must bear the word “imitation” in uniform font immediately after the name of the food imitated.²⁶
- **Ingredient List:** The ingredients of the food product, in descending order of predominance by weight (meaning heaviest ingredient is listed first). Ingredient names must be specific and not a collective or generic name unless specifically identified in the “Acceptable Ingredient Designations” list at the end of this chapter. Ingredients composed of two or more ingredients must list those sub-ingredients parenthetically following the name of the ingredient.²⁷ Any food item that contains a “major food allergen” in any amount, even trace amounts, must declare the presence of the allergen by either including it in the list of ingredients or placing the word “contains” followed immediately by the allergen or the name of the food source from where the allergen is derived after or adjacent to the ingredient list. The nine major food allergens are sesame, milk, eggs, tree nuts, peanuts, wheat, soybeans, fish, and Crustacean shellfish.
- **Net Quantity of Contents:** The net weight and volume of the food product in both the U.S. Customary System and the SI metric system in a prominent and distinct location on a principal display of the food package. The term “NET WT” or other appropriate abbreviation must be used immediately prior to stating the quantity of food contained within the package (Ex. NET WT 12 OZ (340.19g)).²⁸ No qualifying phrases should be used in the net quality of contents statement to exaggerate the amount of food (e.g. Net Wt.

= 1 Large oz. (5g) is not acceptable).²⁹ The net weight only includes the average quantity of food within the package and does not include the weight of the packing materials.³⁰

- **Cottage Food Declaration:** The statement (in at least 10-point type) “This Product is Home Produced.”³¹

Informational panel labeling should be printed in a type size that is prominent, conspicuous and easy to read. Letters should be at minimum 1/16 inch in height and must not be more than three times high as they are wide. Wording colors must contrast with the background and not be crowded with artwork or other non-required labeling.³² Artwork on labels is permissible as long as it does not hide or detract from the prominence of the required label statements or misrepresent the food.³³

Labels on cottage food products are not generally required to contain the food’s nutrition facts; however, if the label makes a nutrient content claim (i.e. low fat, low sodium, etc.) or a health claim (i.e. may reduce cholesterol, healthy) then the label must include a complete nutrition facts panel.³⁴ Cottage food producers who wish to include nutrient content claims should first research the minimum content levels required to make the claim as well as other labeling requirements related to the specific claim.

Sale

Items sold under the cottage food product licensing exemption may not be sold outside of Ohio.³⁵ Within the state, producers have a wide array of options of venues for selling their products. Properly labeled cottage food products may be sold:

- Direct to consumer at the location of production,
- At a licensed farm market,³⁶
- At a farmers market,³⁷
- At licensed retail food establishments or food service operations such as restaurants and grocery stores,³⁸ and
- At festivals or celebrations that last no longer than seven consecutive days and have been organized by a political subdivision of the state.³⁹



- 29 21 CFR 101.105(o)
- 30 21 CFR 101.5(g)
- 31 ORC 3715.023(A)(5)
- 32 21 CFR 101.2(c) & (f)
- 33 21 CFR 1.21(a)(1), 21 CFR 101.3(a), 21 CFR 101.105(h)
- 34 21 CFR 101.9(j)(3), 21 CFR 101.13
- 35 OAC 901:3-20-05
- 36 ORC 3717.22(B)(16)
- 37 ORC 3717.22(B)(2)
- 38 OAC 901:3-20-02
- 39 ORC 3717.22(B)(15)

23 OAC 901:3-20-02

24 ORC 3715.023(A)

25 ORC 3715.023(A)(1), 21 CFR 101.5

26 ORC 3715.023(A)(2), 21 CFR 101.3

27 ORC 3715.023(A)(3), 21 CFR 101.4

28 ORC 3715.023(A)(4), 21 CFR 101.7

Label example

BASIC REQUIRED FOOD LABELING COMPONENTS LABEL EXAMPLE (COTTAGE FOOD PRODUCTION)

This label example is just one way to present the information required on a food product label. Information may be placed in different ways and may appear on more than one label. Labels must comply with all applicable regulations and all information must be accurate and not misleading. Foods cannot be made with partially hydrogenated oils. Additional information can be found at ofb.ag/foodlabelingexample.

Ingredient List – Ingredients shall be listed by common or usual name in descending order of predominance by weight. Meaning, the ingredient that weighs the most is listed first, followed by the next heaviest ingredient, with the ingredient that weighs the least listed last. Any ingredient that is composed of two or more ingredients (sub-ingredients) must list those sub-ingredients parenthetically following the name of the ingredient. The label of any food that contains an ingredient that is or contains a protein from a “major food allergen” shall declare the presence of the allergen by its common or usual name either in the list of ingredients or placing the word “Contains” followed by the name of the food source from which the allergen is derived immediately after or adjacent to the list of ingredients (e.g. Contains: wheat, soy, milk, eggs, almonds).

Ref: ORC 3715.023

Statement of Identity – The Statement of Identity is the name of the food. The name shall be the common or usual name of the food and shall accurately identify or describe the basic nature of the food or its characterizing properties or ingredients.

Ref: ORC 3715.023



Statement of Responsibility – Shall include the:

- Business Name
- Street Address
- City, State, Zip Code

All information in the Statement of Responsibility shall be continuous.

Telephone numbers, website addresses, and e-mail addresses are permitted, but not required. This type of extra information shall not be placed between the Ingredient List and the Statement of Responsibility and cannot be used in lieu of listing the business name, street address, city, state, and/or zip code.

Ref: ORC 3715.023

Net Quantity of Contents – The term “NET WEIGHT” - or an appropriate abbreviation - shall be used when stating the Net Quantity of Contents in terms of weight. The Net Quantity of Contents shall be declared in both the U.S. Customary System and the SI (metric system).

Ref: ORC 3715.023

Cottage Food Declaration – Food products that are manufactured in compliance with Ohio’s Cottage Food Rules, must be properly labeled and bear the statement, “This product is home produced.” In 10-point type font. The statement means that the food product was produced in a private home that is not subject to inspection by a food regulatory authority.

Ref: ORC 3715.023

ODA – Ohio Department of Agriculture ORC – Ohio Revised Code
 The 9 major food allergens are sesame, milk, eggs, tree nuts (e.g., almonds, walnuts, pecans), peanuts, wheat, soybeans, fish (e.g., anchovies) and crustacean shellfish.

Accepted Collective or Generic Name Table^{40*}

Accepted Declaration	Compound Elements
Skim milk or nonfat milk	Skim milk, concentrated skim milk, reconstituted skim milk, nonfat dry milk
Milk	Milk, concentrated milk, reconstituted milk, and dry whole milk
Cultured (substrate)	Bacterial cultures may be declared by the word “cultured” followed by the name of the substrate, e.g., “Made from the cultured skim milk or cultured buttermilk”
Buttermilk	Sweetcream buttermilk, concentrated sweetcream buttermilk, reconstituted sweetcream buttermilk, dried sweetcream buttermilk
Whey	Whey, concentrated whey, reconstituted whey, dried whey
Cream	Cream, reconstituted cream, dried cream, plastic cream (also known as concentrated milk fat)
Butterfat	Butteroil and anhydrous butterfat
Eggs	Dried whole eggs, frozen whole eggs, liquid whole eggs
Egg whites	Dried egg whites, frozen egg whites, liquid egg whites
Egg yolks	Dried egg yolks, frozen egg yolks, liquid egg yolks
“(Vegetable, animal, or marine) (fat or oil) shortening” or “blend of (vegetable, animal, or marine) oils”	Blends of fats and/or oils may be designated in their order of predominance in the food as “___ shortening” or “blend of ___ oils”; the blank to be filled with the word “vegetable”, “animal”, or “marine”, with or without the terms “fat” or “oils”; if immediately following the term the common or usual name of each individual vegetable, animal, or marine fat or oil is given in parentheses. E.G. “Vegetable oil shortening (soybean and cottonseed oil)”
Leavening (individual leavening agents)	Ingredients that act as leavening agents in food may be declared in the ingredient statement by stating the specific common or usual name of each individual leavening agent in parentheses following the collective name “leavening”, e.g., “Leavening (baking soda, monocalcium phosphate, and calcium carbonate)”. When applicable, individual leavening agents must be in descending order of predominance.
Yeast nutrients (individual yeast nutrients)	Ingredients that act as yeast nutrients in foods may be declared in the ingredient statement by stating the specific common or usual name of each individual yeast nutrient in parentheses following the collective name “yeast nutrients”, e.g., “yeast nutrients (calcium sulfate and ammonium phosphate)”. When applicable, individual yeast nutrients must be in descending order of predominance.

Accepted Collective or Generic Name Table continued

Accepted Declaration	Compound Elements
Dough conditioner (individual dough conditioners)	Ingredients that act as dough conditioners may be declared in the ingredient statement by stating the specific common or usual name of each individual dough conditioner in parentheses following the collective name “dough conditioner”; e.g., “dough conditioners (L-cysteine, ammonium sulfate)”. When applicable, individual dough conditioner must be in descending order of predominance.
(list of firming agents) Firming agents	Ingredients that act as firming agents in food (e.g., salts of calcium and other safe and suitable salts in canned vegetables) may be declared in the ingredient statement, in order of predominance appropriate for the total of all firming agents in the food, by stating the specific common or usual name of each individual firming agent in descending order of predominance in parentheses following the collective name “firming agents”. Firming agents not present in the product may be listed if they are sometimes used in the product. Such ingredients shall be identified by words indicating that they may not be present, such as “or”, “and/or”, “contains one or more of the following:”
Sugar	Sucrose, sucrose sugar, cane sugar, or beet sugar

*Not including spices, flavorings, colorings, chemical preservatives and compound ingredients with common or usual name established pursuant to the Meat Inspection or Poultry Product Inspection Acts by USDA or standards of identity determined by FDA. The use of established common ingredients requires the listing of sub-ingredients parenthetically following the name of the ingredient.⁴¹ Spices may be declared in an ingredient list by using their common or usual name or by using the declarations “spices,” “flavor,” “natural flavor,” or “artificial flavor”; however, spice blends, flavors, or colors must list each ingredient by name.⁴² *This list is intended to only serve as an example of accepted abbreviated compound ingredients, this is not a complete list and items on this list are not necessarily ingredients appropriate for use in cottage food production.*

Contacts for Cottage Foods

Ohio Department of Agriculture, Division of Food Safety
 Phone: (614) 728-6250
 Email: foodsafety@agri.ohio.gov
 Web: ofb.ag/cottagefoodsafety

⁴¹ 21 CFR 101.4(b)

⁴² 21 CFR 101.22(h)

Starting from Scratch

- step 1** Know your regulations. While there may be no specific licensing requirements, cottage foods are still subject to ODA sampling.
- step 2** Select a food item that is among the approved non-potentially hazardous food items.
- step 3** Ensure that you have a compliant home kitchen within your residence where you can produce your chosen food item.
- step 4** Package the food item in a safe and sanitary manner and do not use reduced oxygen packaging.
- step 5** Create and properly place your label. Remember to include all required items and be sure to include nutritional facts if you make a nutrient content claim.
- step 6** Decide where you would like to sell your food item within Ohio.